

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.A.ABDUL GAFOOR

&

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

MONDAY, THE 18TH DECEMBER 2006 / 27TH AGRAHAYANA 1928

WA.No. 2377 of 2006()

AGAINST THE JUDGEMENT/ORDER IN WPC.30198/2006 Dated
27/11/2006

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APPELLANT: PETITIONER:

POULOSE. M.C.,
DEPUTY COLLECTOR (LR), ALAPPUZHA.

BY ADV. SRI.N.SUGATHAN
SMT.VARSHA BHASKAR

RESPONDENTS:

1. THE STATE OF KERALA, REPRESENTED BY
THE SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM.
2. THE DEPARTMENTAL PROMOTION
COMMITTEE (HIGHER), REPRESENTED BY THE
CONVENOR & SECRETARY TO GOVERNMENT,
REVENUE DEPARTMENT, SECRETARIAT,
THIRUVANANTHAPURAM.
3. THE COMMISSIONER OF LAND REVENUE,
PUBLIC OFFICE BUILDIN,
THIRUVANANTHAPURAM.

BY ADV. SRI. BENNY GERVASIS, GOVERNMENT PLEADER

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION
ON 18/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

I.A. NO. 1221/2006 IN W.A. NO. 2377 OF 2006

CLOSED

18.12.2006

SD/- K.A. ABDUL GAFOOR, JUDGE

SD/- K.R. UDAYABHANU, JUDGE.

K.A. ABDUL GAFOOR & K.R. UDAYABHANU, JJ

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W.A. NO. 2377 OF 2006

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Dated this the 18th day of December 2006

JUDGMENT

Abdul Gafoor,J

The appellant/writ petitioner was promoted temporarily as Deputy Collector as per Ext. P2 order dated 14.08.2006. But when the D.P.C. prepared the final list for regular appointment as per Ext. P10 list published on 14.11.2006, he is not included on the ground that a disciplinary action was pending against him. But it is a fact that until now no charge sheet has been issued on him. No disciplinary action is pending though he was on suspension earlier. He had been reinstated earlier than the meeting of the DPC. It was thereafter he had been temporarily promoted as Deputy Collector on 14.08.2006. Therefore, he could not have been superseded by the DPC as there was no disciplinary proceedings pending against him, it is submitted. It is further submitted that the contemplation of disciplinary action is not sufficient to supersede an incumbent. It should be pending as on the day when the DPC draws up the selected list.

Unless charge sheet is issued or the incumbent is kept under suspension disciplinary action cannot be said to be pending.

2. In such circumstances, we are of the view that until the direction of the learned single judge is complied with, the appellant/writ petitioner shall not be reverted from the post now he is holding.

The writ appeal is disposed of accordingly.

K.A. ABDUL GAFOOR, JUDGE

K.R. UDAYABHANU, JUDGE

RV

